

**Region 1  
490 N. Meridian Road  
Kalispell, MT 59901**

**AMENDED DECISION NOTICE  
and  
Finding of No Significant Impact  
for  
WEST SWAN CONSERVATION PROJECT**

**November 3, 2010**

**Description of the Proposed Action**

Montana Fish, Wildlife & Parks proposes to conserve approximately 9,350 acres of former Plum Creek Timber Company land in the West Swan area of the Swan River State Forest using available fish mitigation funds from the Bonneville Power Administration (BPA) and Habitat Conservation Plan Land Acquisition funds from the U.S. Fish & Wildlife Service. The conservation easement lands are located in a checkerboard pattern mostly west of Highway 83 in Lake County. Action alternatives evaluated by FWP include purchase of a conservation easement, fee-title purchase of the lands directly, or a combination of these two alternatives. In the draft environmental assessment (EA), FWP also considered the no-action alternative.

**Public Involvement – Scoping**

The Nature Conservancy and Trust for Public Land have been involved in extensive public outreach since the Montana Legacy Project was initially announced. With strong public support, FWP also has been conserving forestland in the Swan since 2006. FWP holds a conservation easement on 7,200 acres and fee-title to another 1,760 acres east of the proposed project as part of the North Swan Conservation Project, approved by the FWP Commission and State Land Board in December 2005.

To identify specific issues related to the West Swan Conservation Project, FWP initiated a 2-week comment period on June 29, 2010. FWP distributed a news release to media outlets requesting preliminary public input on issues they may have concerning this proposed action. We also sent this information to the Swan Ecosystem Center based in Condon, who then forwarded that information to 43 entities on one of their mailing lists per our request.

We received four letters during the scoping period that ended July 12, 2010. One letter supported the overall project proposal, while the other three respondents generally favored the FWP fee-title acquisition alternative. Two respondents raised concerns about fish and wildlife habitat protections, particularly for the conservation easement alternative. They specifically asked for clarification on how the proposed alternatives would address stream conditions such as temperature, sedimentation, roads, culverts, stream crossings, and road densities; trends in stream conditions over time; habitat considerations for westslope cutthroat trout, grizzly bears, lynx, and white-tailed deer; global warming; grizzly bear agreements; and old growth.

## **Draft Environmental Assessment and Initial Public Comments**

FWP released a draft environmental analysis document for public review on August 6, 2010, and asked for comments on the analyses and alternatives initially by September 5. This deadline was later extended to September 24 in anticipation of the availability of appraisal information. We distributed the draft document to 63 individuals and organizations and sent postcards announcing the public comment period to another 132 individuals and organizations. FWP ran legal ads that described the proposed project, the availability of the draft EA, and the public meeting information in five regional or local newspapers and the draft was available on FWP's official web site. FWP also issued a press release that focused on the availability of the draft EA and the time, date, and location of the public meeting. A news article on the proposed project appeared in the Daily Inter Lake on August 11, 2010. We also supplied copies of the draft document to public libraries in Kalispell, Bigfork, Seeley Lake, Polson, Missoula, Swan Lake, and Condon and made copies available at Region One headquarters.

FWP held a public meeting on August 19, 2010, at 7:00 p.m. at the Swan Lake Community Center. We provided information about the project and answered questions. Ten members of the public attended the open house in addition to representatives from FWP, Montana Department of Natural Resources and Conservation, and Trust for Public Land. One individual expressed support for the conservation easement alternative at the public meeting.

On September 3, in anticipation of receiving preliminary appraisal information that FWP could release to the public, FWP extended the public comment period through September 24 via public notices, e-mails, press releases, and legal notices. Unfortunately, the appraisal was not available before the end of the public comment period.

On September 30, a decision notice was issued that included public comments and our responses, and recommended that the FWP Commission approve any one of three action alternatives, pending the outcome of the appraisal and landowner negotiations. The Commission then scheduled this item for a final decision on October 7 with the expectation that the appraisal information would be available at least one week before the Commission meeting. Unfortunately, the appraisal was not finalized until October 4. After FWP reviewed the appraisal and met with the seller, the agency then selected the conservation-easement-only alternative at a below market sale price as their preferred alternative for the October 7 FWP Commission meeting. FWP issued a press release on October 6 providing the public the appraisal information and indicating that FWP preferred the conservation easement alternative and would recommend that alternative to the FWP Commission; the FWP Commission then approved this alternative at their meeting on October 7.

Because there was not enough time for the public to adequately consider the appraisal, negotiations, and alternative cost information as part of the public comment period, FWP reopened the public comment period on October 15 for two weeks and notified the public about this additional comment period, why it was reopened, and what our preferred alternative was via e-mail, press release, and legal notices in local newspapers.

## **Summary of Recent Public Comment**

FWP received 29 additional public comments between October 15 and October 29, 2010. Of these, 17 supported the conservation easement alternative, three supported the fee-title alternative, and eight the no-action alternative. One comment suggested the combination of fee-title and conservation easement would be better than the conservation easement alternative. Another supporter of the fee-title alternative suggested a land exchange with DNRC to ultimately have FWP hold title to the most important fish and wildlife habitats. One comment from the Confederated Salish and Kootenai Tribes Historical Office did not find any cultural issues with the proposed project. Of the 29 organizations or individuals who commented, only six submitted or made comments during the first public comment period.

Supporters of the conservation easement alternative believed that this alternative would provide important resource protection but still allow long-term economic benefits of continued forest management because DNRC or another timber company would be able to buy the underlying fee-title at a reasonable value and continue forest management. Many of the new supporters were from the timber industry, but also included residents of the Swan Valley and both Missoula and Lake County Commissions.

FWP received three comments that supported fee-title alternative by FWP because this offered the most protection for fish and wildlife resources and is most consistent with fish mitigation and habitat conservation plan funds.

The eight comments that opposed any action by FWP gave a number of reasons including the overall cost of the conservation easement, the lack of private land in the Swan for future economic and community growth, and future reductions in the tax base. Several of these individuals, however, did support DNRC buying these lands outright, with no conservation easement.

## **FWP RESPONSE TO RECENT PUBLIC COMMENTS**

### **1. Comments Received About Private Property Rights.**

Most of the eight respondents that opposed FWP action of any kind believed that this project would lead to negative effects on schools, taxes, and opportunities for community growth in the Swan Valley. One individual noted that there are now only 8,000 acres of private unencumbered land in Missoula County's part of the Swan Valley, while others just noted the general loss of private land in the area due to the Montana Legacy project. Several claimed that this project is great for current residents of the Swan, but would essentially "close the door" to new residents, businesses, and future community growth, and limit future property taxes in the valley. This could affect future school funding and jobs. They generally believed there has already been too much conversion of private land to public ownership in the area. Two commenters said that the Swan Ecosystem Center did not represent their concerns. Some of these same respondents did support DNRC purchasing all these lands outright, without a conservation easement. Two suggested that covenants work on private land to reduce impacts to wildlife.

**FWP Response:** FWP acknowledges that there have been substantial changes in landownership patterns in the Swan Valley due to the efforts by numerous private, state, and federal entities to conserve most of the private land in the Swan Valley. Approximately 52,000 acres of former corporate lands in the Swan Valley were recently conveyed to the Flathead National Forest. FWP has also purchased conservation easements on another 7,200 acres and fee-title to another nearly 2,000 acres of other former Plum Creek Timber Company lands within the Swan River State Forest east of Highway 83 in Lake County. Combined, these actions have converted some, but not all, of available corporate private land to public ownership. The conservation easements held by FWP have restricted future subdivision and development, but not all economic uses; they allow the landowner to continue forest management, recreational outfitting, gravel extraction, and other compatible uses. The conservation efforts by FWP have been consistent with what the public supported and desired in the past. It appears that some residents now believe that enough conservation has occurred in this valley.

It is important to note that our proposed action to purchase conservation easements on these lands will not convey this land to a public agency. The sale of the fee-title to these lands to DNRC or to another private entity is the decision of the new landowner, The Nature Conservancy.

The conservation easement alternative is supported by both Lake and nearby Missoula County Commissioners. Although Lake County recognizes there may be a possible loss of a portion of the tax base through ultimate sale of these lands to DNRC (if that were to occur), they also recognize that future development of these lands would create a greater tax burden to Lake County than if they remained timberland.

FWP has found that covenants do not conserve land for wildlife; they are intended primarily to decrease the risk of wildlife becoming attracted, habituated, and a nuisance to the new residents of this area. Once development occurs, the native forest habitats are changed and reduced as they become occupied by humans to one degree or another. Human conflicts with wildlife increase in spite of covenants as they are difficult to enforce through time. Pets are one of the biggest problems for wildlife and are very difficult to manage through covenant restrictions.

## **2. Comments Received About Project Cost.**

FWP received several comments from individuals that felt that the appraised value of the land and the conservation easement were much too high, even with a bargain-sale. They felt this project was a waste of BPA and taxpayer money. One individual said that this project cost did not reflect the true timber value of the land, and that this project was intended to pay back The Nature Conservancy and Trust for Public Land more than what they paid Plum Creek Timber Company for the purchase of these lands.

**FWP Response:** FWP secured a professional appraiser to obtain the estimated value of both fee-title and conservation easement for the West Swan's 9,350 acres of land. The overall estimated value of the conservation easement was originally closer to 84% of the estimated fee value; the seller then reduced the conservation easement sale price to about 68% of fee value, which was much closer to what FWP was willing to pay for this conservation easement. The appraisal that

was used had to meet federal appraisal standards and be supported by extensive, comparable sales data throughout western Montana. The appraiser also performed a timber cruise of the land. FWP believes the actual cost for the conservation easement value, which removes subdivision and development rights, allows public access, and limits other uses such as selling subsequent parcels, size and number of gravel pits, and land management within riparian areas, is fair and strongly supported by recent market sales. The recent appraisal indicates land values have declined in the Swan over the last 2 years indicating that the overall conservation easement value of about \$1580/acre is a good deal for FWP and its funding partners. The appraiser also noted that land values may rebound more quickly in the Swan than other parts of the state because of the inherent amenity values of the valley and because of the land conservation activities that have taken place. BPA and the U.S. Fish & Wildlife Service have reviewed the proposed conservation easement terms and are satisfied that the proposed terms will insure benefits for fish and wildlife over the long term, and that the price represents the current, fair-market value.

**3. Comment received about whether or not the landowner holds mineral rights and if or how the conservation easement addresses mineral rights.**

**FWP Response:** The mineral rights under these lands have been severed and are currently held by third parties. Should a third party ever desire to develop these rights, they would not be prohibited by the conservation easement from doing so. Because of this potential issue, The Nature Conservancy and Trust for Public Land each completed independent geological assessments of these lands to determine the potential for hard rock, coal, oil and gas, and other hydrocarbon development. Both reports found that the likelihood of all mineral development, including hard rock and hydrocarbons, to be so low as to be negligible. However, should the hard rock or coal mineral rights ever be reacquired or united with the surface landowner, the development of hard rock or coal would be prohibited by the conservation easement. If the oil and gas rights were acquired by the surface landowner, the conservation easement would only allow the surface owner to develop the hydrocarbon rights (oil and gas) as long as the development did not impact the conservation values of the property. To further assess this risk, the BPA completed a detailed geological field study for hydrocarbon potential on all the lands and concluded that the potential of hydrocarbon development was simply not a risk to the conservation easement.

**4. Comments received supporting FWP pursuit of the fee-title alternative using both Bonneville Power and Habitat Conservation Plan funding. FWP should buy lands and then swap some important lands with DNRC, or DNRC could put CEs on their lands in exchange for FWP lands.**

**FWP Response:** FWP has weighed both the conservation easement and fee-title alternatives extensively. We believe the fee-title alternative by our agency is not only more costly up front, but it would be very difficult for us to manage this much checker-boarded forestland with our available resources. We simply do not have the staff, expertise, and resources that are needed to actively manage another 9,350 acres of active timberland. We already have purchased nearly 2,000 acres of former Plum Creek land across Highway 83. We purchased these parcels to remove the risk of development when Plum Creek was actively listing property for sale in the Swan. As we claimed in documents related to these former land acquisitions, we plan to dispose

of or exchange out of the long-term management responsibilities of most of these lands to some entity that is in a better position to undertake long-term forest management while FWP still retains a conservation easement or similar restriction on these lands. These lands could, in fact, be exchanged to DNRC for additional conservation on their lands, as suggested by one individual. Any such future land transactions will be the subject of a new environmental review and public participation.

Additional fee-title purchase by FWP further complicates the checkerboard ownership of these lands with our sister agency. We feel that the conservation easement adequately secures fish and wildlife habitat conservation at a landscape scale and at an acceptable level and that DNRC will be responsive to our and other public concerns for fish and wildlife in the future. Although we recognize that timber on these lands will be managed to generate income for the school trust fund, the management cannot be so extreme as to potentially violate DNRC's approved management plans, FWP's conservation easement terms, and the associated Multi-Resource Management Plan. Additionally, if DNRC does acquire the underlying fee, they intend to complete their pending Habitat Conservation Plan with the U.S. Fish and Wildlife Service and adopt specific timber management standards for grizzly bears, bull trout, and lynx on their existing trust lands. The conservation easement will insure that some of the key fisheries provisions of DNRC's Habitat Conservation Plan will also be applied to the former Plum Creek properties, whether or not DNRC purchases these properties and/or incorporates them into their Habitat Conservation Plan with the U.S. Fish and Wildlife Service.

## **5. Comments about how any proposed action could reduce future OHV use.**

There is nothing in the proposed FWP conservation easement language that precludes or prohibits a landowner of these lands from developing and/or leasing these lands for OHV use as long as this use did not significantly impact the conservation values outlined in the easement. The owners must comply with the terms of the conservation easement with respect to roads/activities in the important riparian areas associated with fish-bearing streams and the standards of the Multi-Resource Management Plan that includes commitments to following habitat standards for grizzly bears and other species. Under the proposed conservation easement, the leased use by OHV riders could not preclude general public access and use of these lands (e.g., the development of a private OHV trail system would probably be contrary to the conservation easement terms). If the lands were purchased by DNRC, as a state agency, they would need to follow state environmental assessment processes, including public involvement, before they could lease any land for this recreational use. In all cases, the landowner would be required to notify FWP prior to approving any commercial recreational use.

## **FWP RECOMMENDED ALTERNATIVE AND FINAL DECISION RECOMMENDATION**

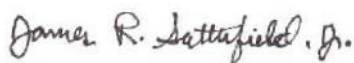
In reviewing all the public comment, evaluating the environmental effects, appraisal, and purchase price, and other relevant information, I recommend that FWP pursue the conservation easement alternative for the West Swan Conservation Project. If FWP is successful in obtaining both the Bonneville Power Administration fish mitigation funds and the U.S. Fish and Wildlife Service Habitat Conservation Plan Land Acquisition dollars for this project, FWP would hold

two very similar conservation easements on different blocks of the project lands as shown in the attached map (see Appendix B).

FWP believes the bargain-sale conservation easement is the best alternative for conserving these lands for long-term fish and wildlife benefits while also maintaining their use as working forestlands. The conservation easement approach is consistent with our overall approach to conserving other timberlands both in the Swan (7,200-acre North Swan conservation easement) and elsewhere in northwest Montana (142,000-acre conservation easement in the Thompson and Fisher River Valleys) as well as in parts of the Blackfoot and Clearwater drainages. FWP does not have adequate funding for fee-title acquisition of these lands, nor does FWP have staff or funding to meet additional long-term responsibilities of ownership, maintenance, and stewardship for large tracts of timberland that fee ownership would demand. For these reasons, if we can secure important fish and wildlife habitat commitments and public recreational opportunities through a conservation easement, that is preferable for our programs. Fortunately, in this case, the seller is willing to convey the underlying fee-value to DNRC, who has the expertise, staff, and on-site resources to manage these lands along with their other contiguous lands within the Swan River State Forest, consistent with the terms of the conservation easement.

We believe that the proposed conservation easement, along with the associated Multi-Resource Management Plan, will provide long-term benefits for fish and wildlife over much of the Swan River State Forest landscape. This project is the culmination of years of conservation work by multiple partners in the Swan Valley, efforts that include the acquisition of over 52,000 acres of former Plum Creek lands by the Flathead National Forest, 6,000 acres of conservation easements on private lands, and 9,000 acres conserved by FWP. The long-term cumulative benefits of these combined conservation efforts will protect threatened and endangered species, reduce future impacts associated with development and subdivision, maintain public recreational opportunities, reduce management inefficiencies associated with checkerboard ownership, and expand opportunities for public involvement in nearly all future forest management activities at multiple scales.

Our funding partners have reviewed the conservation easements, Multi-Resource Management Plan, and other documentation related to this proposed transaction and have approved this project for funding, pending the completion of the remaining steps in their due diligence process.



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James R. Satterfield Jr., Ph.D.  
Regional Supervisor

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November 3, 2010  
Date

## **Appendix A**

### **SUMMARY OF PREVIOUS PUBLIC COMMENTS AND FWP RESPONSES (August 6 - September 24, 2010)**

#### **Summary of Previous Public Comment:**

FWP received 12 written comments from the public during the environmental assessment public comment period ending September 24, 2010. Of these, nine individuals supported the fee-title alternative (Alternative 2) while two respondents suggested that either fee-title or conservation easement alternatives were acceptable. One individual commented on the need to address fuel reduction in the proposed conservation-easement-designated Riparian Exclusion Areas.

The respondents supporting the fee-title alternative (Alternative 2) believed this alternative would be best for fish and wildlife habitat and application of mitigation funds. They believed the FWP conservation easement alternative allows for too much timber management and would not provide adequate protection for threatened and endangered species and overall fish and wildlife habitat. Specific comments focused on deficiencies in the conservation easement that did not designate Riparian Exclusion Zones along all streams; provide enough protection for streams with westslope cutthroat trout; provide any terms to maintain habitat for lynx, white-tailed deer winter range, or old growth; and did not specifically protect disconnected wetlands. They expressed concerns for continued and future impacts of roads on streams and grizzly bears. They mentioned that there were too many exceptions to harvest restrictions in designated stream buffers. Several respondents supporting the fee-title alternative stated they would like to know the costs of all the alternatives and reserve the right to make additional public comment once that information is available.

#### **FWP RESPONSE TO COMMENTS**

##### **Comments Received About the Conservation Easement Alternative (Alternative 1):**

##### **Streams, riparian areas, wetlands**

1. Several respondents believed that all streams within the project area should have greater protection, not just the bull trout streams (Swan River, Woodward, and South Woodward Creeks). They believed that buffers should be placed on all streams, including intermittent and headwaters, to maintain cold temperatures and reduce sediment, and mitigate for climate change. They also believed the Riparian Exclusion Zones should be larger to protect the streams from increased sediment and temperature.

**FWP Response:** Proposed riparian buffer sizes and stream class associations are admittedly a necessary compromise between maximizing stream protections across this landscape and providing enough management flexibility to profitably harvest timber. The proposed riparian buffer sizes are derived from a combination of current forestry best management practices, including additional protections on all streams embodied in DNRC's proposed habitat conservation planning effort, coupled with ecological



considerations of site potential tree growth, which in the Swan Valley is typically 80 to 100 feet. Increasing stream protections, for example, by moving forest management activities even further from all streams, regardless of type, would provide additional stream conservation benefits. However, these benefits would be realized at a diminishing rate of return; expanding buffers would have less and less direct measureable effect on stream condition once minimum protections for stream function is established. Again, as a compromise, the proposed stream protections are significantly improved over current forestry best management practices, yet they also maintain forestry as a viable land use option in the project area, both of which are primary project objectives.

2. The 50% retention of all large trees in the Riparian Management Zone is a nice idea if this area has not been logged before, which is not the case. How many times and how often will the RMZ be logged under Alternative 1? Are there areas in the RMZ that will never allow logging?

**FWP Response:** Past logging activities are included in site assessments for new timber projects on a case by case basis. In addition, limitations on harvest within the Riparian Management Zones are not simply based on percent of certain classes of trees harvested alone. Additional harvest on multiple entries into the Riparian Management Zones is also limited, for example, by requirements of the Montana Streamside Management Zone Law to leave a minimum number of trees eight-inch-diameter at breast height, or greater, every 100 linear feet if that number exceeds what would be left on the basis of percent of harvest alone. The required minimum number of trees left varies depending on stream class, but a lower limit to harvest exists on all fish bearing streams, perennial streams, and streams that contribute surface flow to another stream, lake, or similar aquatic feature. These limits are imposed precisely to prevent tree cover from being excessively removed near streams that might harm forest benefits of shading or the recruitment of large woody debris. No Riparian Management Zone is proposed in which logging will never be allowed; however, the Riparian Exclusion Areas severely restrict potential harvest to management activities intended to benefit fish and wildlife only. This requirement, subject to FWP approval, has the practical effect that harvest in these areas will likely remain extremely rare.

3. There are too many exceptions in the conservation easement such as:
  - Harvest of insect-infested trees or hazard trees may occur within the 50-foot no-harvest buffer; ...harvest of diseased or insect-infested trees from within the remaining RMZ may exceed those levels necessary to meet the normal 50% retention requirement.
  - Cable harvest systems on Class 1 streams may require corridors through the RMZ in order to fully suspend logs across a stream. In these situations there would be an exception to the no-harvest buffers that would allow cable corridors with a minimum spacing of 150 feet (see pages 9 & 10).

**FWP Response:** Timber harvest exceptions in the conservation easement exist to provide a degree of flexibility necessary to harvest trees in keeping with current industry standards and best management practices. Additional harvest allowances apply to exceptional, not typical, circumstances, such as insect or disease infestations identified by the respondents. Balancing the need to retain this management flexibility is that all harvest activities are evaluated on a case by case basis. Conflicts with the conservation purposes of the easement will be identified early in this process, if and when they arise, providing an opportunity to implement appropriate mitigation. However, these exceptions do not apply to the Riparian Exclusion Areas where all future management actions are solely for the purpose of benefiting fish and wildlife habitat.

4. The conservation easement does not protect potholes and wetlands unless they are connected to a stream riparian area. The conservation easements do not cover all creeks, perennial creeks, pot holes, and wetlands

**FWP Response:** Existing state and federal laws provide additional protections for all aquatic resources above and beyond those protections explicitly highlighted in the conservation easement. Nothing in the proposed easement modifies, diminishes, or otherwise alters these additional protections. Although these are important habitat components, the proposed conservation easement alternative was the result of extensive negotiations with the seller of these lands.

#### **Fish, Wildlife and Overall Habitat Considerations under Alternative 1:**

1. There are no standards for lynx. Forest management does not address white-tailed deer thermal cover. If the lands are acquired by DNRC they may not apply their Habitat Conservation Plan (HCP) standards to these lands. The lands will always be in a state of recovery from roads and logging under DNRC ownership, as DNRC plans for 80-100-year logging rotations. These lands will never have old growth attributes, large snags and large woody debris, which are critical for many wildlife and fish species. There are old-growth-dependent species and these will not survive on the landscape under Alternative 1 and will never have habitat suitable to their needs.

**FWP Response:** We were unable to negotiate specific conservation easement terms for lynx, white-tailed deer winter range, and old growth with the future owner/seller of these lands. This landowner was willing to limit subdivision, restrict development and other commercial rights, and protect riparian areas along the important fish-bearing streams. Recently, the adjoining landowner and potential purchaser of these lands, DNRC, announced their proposal to adopt management standards for several threatened and endangered species, including lynx, grizzly bears, bull trout, and westslope cutthroat trout on their forested lands through an agreement with the U.S. Fish and Wildlife Service, termed the Habitat Conservation Plan or HCP. Once approved, DNRC would follow these standards for their existing forest ownership. If DNRC acquires the proposed West Swan project lands, it will be up to DNRC and the U.S. Fish and Wildlife Service to decide whether or not they will extend the lynx and other wildlife HCP management standards to the West Swan project lands. DNRC would be required, if they own these

lands under Alternative 1, to permanently comply with the fish protection terms of the HCP as these were captured in the FWP conservation easement and associated management plan.

2. If these lands fall under DNRC ownership or management, generating revenue through logging will be the highest priority. Wildlife and fisheries protections will not be the dominant use. Soils, wildlife, water quality, fisheries, and recreation will all suffer under DNRC ownership. Alternative 2 does provide for active management of the recovering forest as well as fire suppression by DNRC (p. 36).

**FWP Response:** Under DNRC ownership, these lands would be primarily managed for timber production, consistent with the DNRC's Forest Management Plan and associated rules, but subject also to the terms of the FWP conservation easement. The proposed conservation easement is similar to the conservation easement that FWP negotiated with Plum Creek on lands east of this project area. The West Swan proposed conservation easement is generally more restrictive and better for fish and wildlife than the Thompson and Fisher conservation easements in that it has specific terms for riparian protection as well as for snag and hardwood retention. The most important aspect of Alternative 1, the FWP conservation easement alternative, is to ensure these lands will not be subject to sale on the private market undergoing general subdivision and development processes that leads to habitat fragmentation and multiple land uses and ownerships, but would be managed for long-term timber production with permanent public access and fish habitat protection. The project lands, under Alternative 1, would be managed in accordance with the proposed HCP native fish standards; this is also expected to be applied to all the intermixed DNRC lands once the proposed DNRC HCP is finalized. Therefore, from an aquatic or riparian perspective, the entire drainages on both the east and west sides of the Swan River State Forest would be managed in a way that will maintain native fish habitat. We believe the overall forest and riparian condition of the West Swan lands, if purchased by DNRC, will improve over time because of the continuity of management that this would provide with their own lands. The ownership within the Swan River State Forest would not be as fragmented; management across the landscape would be similar and the responsibility, primarily, of one agency. The timing and extent of road use and forest management could be better allocated and timed to minimize some of the impacts that occur with multiple ownerships and differing management goals.

### **Comments About Deficiencies in the Multi-Resource Management Plan:**

1. Delineation of Channel Migration Zones should not be voluntary.  
**FWP Response:** Channel Migration Zones (CMZ) are quantified when a timber sale is proposed. This happens with each timber sale; in these circumstances, delineation is required, not voluntary.
2. Abandoned roads should be reclaimed, not allowed to remain on the landscape with culverts intact. The greatest surface erosion from roads occurs during the construction phase and the first year after. Temporary roads have enduring impacts on aquatic resources.

**FWP Response:** The Multi-Resource Management Plan commits to no net gain in road miles over existing conditions at the time of acquisition, which means some old roads must be reclaimed whenever new roads are necessary. Best management practices will be used to reduce sediment effects during new road construction. These same practices apply to reducing or eliminating sediment from any abandoned road. Typically, culverts are removed, not left in place, in these situations.

3. The Management Plan allows the landowner to construct and maintain up to 5 miles of temporary roads to facilitate timber management. However, temporary roads have impacts similar to permanent roads, such as erosion during and just after construction and compaction and loss of soil productivity. Road obliteration does not immediately stop severely elevated soil erosion from roads. Temporary roads have enduring impacts on aquatic resources.

**FWP Response:** Temporary roads are often necessary to conduct modern forest operations and their impact can be significant. For this reason, we require that the landowner use best management practices to reduce or eliminate harmful consequences to aquatic resources during road construction and after a road is retired from use.

4. Fifteen years is too long to complete corrective actions on sites identified as having high sediment delivery risk.

**FWP Response:** A land acquisition of this size that is mostly comprised of previously managed timberlands will potentially include some, perhaps many, problematic sediment delivery sites. These sites, sometimes referred to as “legacy” sites, occur both naturally and from previous land management activities. It takes time to familiarize with everything on a landscape this large and more time to identify and prioritize problem areas. The timelines included in the multi-resource management plan are informed professional judgments about how much time and money realistically will be needed to implement corrective actions, assuming that problem areas occur at rates similar to those known from previous experience. Remediation could be much quicker, of course, if sites having high sediment delivery risks are fewer than presently anticipated.

5. It allows the landowner to construct and maintain up to 5 miles of temporary roads to facilitate timber management. However, temporary roads have impacts similar to permanent roads such as erosion during and just after construction, and compaction and loss of soil productivity. Road obliteration does not immediately stop severely elevated soil erosion from roads. Temporary roads have enduring impacts on aquatic resources.

**FWP Response:** A land acquisition of this size that is mostly comprised of previously managed timberlands will potentially include some, perhaps many, problematic sediment delivery sites. These sites, sometimes referred to as “legacy” sites, occur both naturally and from previous land management activities. It takes time to familiarize with everything on a landscape this large and more time to identify and prioritize problem

areas. The timelines included in the multi-resource management plan are informed professional judgments about how much time and money realistically will be needed to implement corrective actions, assuming that problem areas occur at rates similar to those known from previous experience. Remediation could be much quicker, of course, if sites having high sediment delivery risks are fewer than presently anticipated.

#### **Other Concerns/Issues Not Addressed in the EA:**

1. Please define “working forest landscape” (EA at page 42). Will forest management activities in Alternative 2 be subject to MEPA?

**FWP Response:** FWP recognizes that we, as potential future owners of these lands under Alternative 2, would ultimately have to manage the forest and timber resources to some degree. This would be required to deal with fire, insects and diseases, blow down, wildlife habitat, etc. As the public noted, these lands have been used for fiber production over the last century, and it could be years to decades before some of these lands will recover their full habitat potential. There are many issues, such as weeds, roads and water quality, overstocked young stands, lack of species diversity and ages, and many other issues that we would have to address over time. We used this term “working forest landscape” to mean that FWP would propose and implement management projects such as thinning, fuel reduction, planting, group selection cuts, or other timber sales designed to improve or restore natural forest stand conditions, and improve species and habitat diversity and stand merchantability over time. Once these investments are made, and as long as fish and wildlife values overall are not significantly impacted, FWP would plan and propose to manage the forest in a manner that we could possibly recover some of the long-term management costs needed to improve the lands over time through timber sales, perhaps generating enough income to sustain our management of the land in perpetuity. FWP would follow the MEPA process when we propose a detailed management plan to address how we would restore productive forest on these lands and address the various forest and fish/wildlife problems over time. Once that plan was adopted, we would need to again comply with MEPA when proposing specific actions that take place under that plan.

2. BPA reserves rights for transmission lines under all alternatives, but there was no analysis in the EA. Will MEPA/NEPA be done at the time of transmission line proposal? If not, then how will these effects be analyzed?

**FWP Response:** All BPA transmission line projects will be subject to a separate NEPA analysis and public involvement process.

3. The 2010 Resident Fish Memorandum of Understanding was mentioned, but we do not know what provisions are/will be in it.

**FWP Response:** The 2010 Resident Fish Memorandum of Understanding is the agreement between MFWP and BPA by which BPA provides money to the West Swan

Valley Project in exchange for fish mitigation credits. This agreement will most likely be finalized and signed in early October at which time its contents will be made publicly available.

4. We have been informed that the appraisal of the lands for conservation easement and for fee title has not been finalized. This is extremely important information that is necessary for the public and decision-maker to understand and analyze the decision. Both MEPA and NEPA require this information in the Environmental Assessment. We reserve the right to supplement our comments when this information is available for public review. If the appraisal for these lands is lower than the 15.5 million secured by BPA, it may be prudent to purchase lands from the DNRC to better protect this important wildlife and fish habitat for the long term benefit of future Montanans.

**FWP Response:** It is unfortunate that the appraisal was not available during the environmental review period. FWP will release the appraisal information once it is available so that the public can provide comment to the FWP Commission and/or State Land Board in a timely fashion. Agencies generally provide agendas and notices of decisions on their agency websites at least one week prior to final decisions. FWP Commission plans to consider a decision on this project during its upcoming October 7 Commission meeting in Helena. The State Land Board's decision will be dependent on the availability of the appraisal and funding information as well as the willingness of the landowner to complete a transaction. The earliest a final decision could be made, pending the availability of the appraisal and landowner intent, is the October 18 or November 15 State Land Board meeting.

5. The purpose of the BPA funds is to mitigate the loss of fish habitat from the development of the Hungry Horse Dam. Only DFWP has the mission congruent with the purpose of the funds.

**FWP Response:** The conservation of natural resources and values is the overarching goal of this project. The project lands are in private ownership, and if no action is taken by FWP, these lands may be sold on the private market. All entities and agencies involved in the West Swan Valley Conservation Project are working to convey this land to potential public ownership, while also providing public benefits by protecting important conservation values of these lands, maintaining their overall productivity, and ensuring permanent public access. The final result may not be 100% conservation of the fish and wildlife habitats nor 100% private timber production, but some intermediate result within this range. This overall conservation purpose is in line with the objectives of the proposed property acquisitions, whether land is purchased in fee or protected by an overarching conservation easement, or a combination of the above. The fish mitigation purpose of BPA funding in any proposed action would be achieved by enhanced stream protections, with the additional benefit that other conservation objectives may also be realized as well.

6. Will this proposed project impact outfitters' opportunities to lease land for commercial recreation?

**FWP Response:** The conservation easement allows the landowner to lease the land for commercial recreation, but commercial recreational leases cannot exclude public use. Also, commercial outfitting cannot impact the general public recreational use. Under FWP ownership alternative, commercial outfitting would be considered under our commercial use rules.

